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CACFP-647

State Agency Approval of Sponsored Facilities' Applications and
Reimbursement to Facilities at the Time of their Initial Approval in the
Child and Adult Care Food Program (CACFP)

STATE AGENCY DIRECTORS - Colorado DPHE, Iowa, Kansas,
(Child Nutrition Programs) Missouri DH, Montana DPHHS,
Nebraska, North Dakota, South
Dakota, Utah and Wyoming

The purpose of this memorandum is to answer questions regarding the requirement at section 226.16(b) that State agencies approve sponsored facilities' applications for participation in CACFP, and the timing of the initial reimbursements to sponsored facilities in CACFP. This guidance applies to all types of sponsored child and adult care facilities—group or family day care homes, child care centers, adult day care centers, emergency shelters, and at-risk afterschool care centers.

I. State Agency Approval of Sponsored Facilities' Applications

What do the regulations require with regard to State agency approval of sponsored facilities' applications?

Section 226.16(b) requires each sponsoring organization to "submit to the State agency all information required for its approval and the approval of child care and adult day care facilities under its jurisdiction, including. . . (2) An application for participation, or renewal materials, for each child care and adult day care facility accompanied by all necessary supporting documentation. . . ." This language requires State agencies to have in place a system for approving the Program participation of each sponsored facility, and for notifying sponsoring organizations in writing of their decision. The responsibility to approve the participation of facilities cannot be "delegated" to sponsoring organizations.

What is involved in a State agency's approval of a facility's application to participate?

The State agency's process for approving facility applications does not have to be elaborate. At a minimum, it must ensure that:

- No facility applying for approval is currently on the National listing of seriously deficient institutions;
- Each facility is currently licensed or otherwise approved to provide child care;
- No facility applying for approval is currently on the State agency's list of providers disqualified from participation in CACFP; and
- No facility is participating under more than one sponsorship.

Must the sponsoring organization submit a hard copy of its sponsor-facility agreement to the State agency for approval?

Not necessarily, although this may be the way the State agency chooses to implement this requirement.

II. Reimbursement to Facilities at the Time of their Initial Approval

Can a sponsored facility be reimbursed for meals served prior to the day on which the State agency approves the facility for Program participation?

Section 226.16(b) makes clear that a sponsored facility cannot receive reimbursement prior to the approval of its Program application by the State agency. However, for independent and sponsored centers, section 226.11(a) provides State agencies with the option of reimbursing for eligible meals served in the month before the month in which the agreement is executed. (For sponsored centers, this would be the month before the month that the State agency approves the center's application.) Thus, if the State agency permits, a center can earn reimbursement for meals served prior to the date its application is approved by the State agency, and receive such reimbursement retroactively after that approval.

The regulations are silent on the issue of when day care homes may begin to earn reimbursement for meals that meet the Program's meal pattern requirements. This memorandum extends the provision set forth in the regulations for centers to new family day care homes entering the Program under a participating day care home sponsor. Thus, the State agency also may elect to provide reimbursement for all eligible meals served in day care homes in the month prior to the month in which the State agency approves the home's application (provided the conditions discussed below are met).

Doesn't FNS Instruction 788-10, "Retroactivity of Agreements in the Child Care Food Program," prohibit retroactive payments to day care homes?

FNS Instruction 788-10 prohibits retroactive administrative and meal reimbursements to new sponsoring organizations of day care homes and their providers, but allows retroactive administrative and meal reimbursements to reapplying home sponsors and their providers. This memorandum addresses the situation in which a sponsoring organization already participating in the Program submits a day care home's application for participation to the State agency for approval.

What options do State agencies have with regard to reimbursements to new day care homes entering CACFP under an established sponsoring organization?

There are two acceptable approaches to the issue of when a day care home entering CACFP under an established sponsoring organization may begin to earn reimbursement for eligible meals.

First approach: State agency prohibits retroactive reimbursement—

For a variety of reasons, State agencies may believe that it is necessary to limit day care homes' ability to receive reimbursement for eligible meals served prior to the date of the State agency's approval of the home. State agencies employing this approach must ensure that all sponsoring organizations are aware of this policy, and that the sponsor communicates this policy to its providers at the time that the sponsor and home enter into an agreement.

Second approach: State agency allows retroactive reimbursement—

As discussed above, State agencies may permit day care homes to earn reimbursement for eligible meals served prior to the date of the State agency's approval of the home's application. This is acceptable provided that certain conditions are met. Since retroactive reimbursement is contingent upon State agency approval of the home, we strongly recommend that sponsoring organizations include a statement in their agreements with day care homes that retroactive reimbursement will only be provided if the State agency approves the home. Specifically, a day care home is not eligible for retroactive reimbursement for meals served unless all of the following have occurred:

- (1) The day care home and sponsor execute a Program agreement;
- (2) The day care home's licensure or alternate approval is effective;
- (3) The sponsor has conducted a pre-approval (pre-agreement) facility visit and facility training; and
- (4) The home has adequate documentation of the number of meals served and that the meals served met Program requirements.

For example, using this approach, a sponsoring organization signs a CACFP agreement with four new family day home providers on October 15. In early November, the sponsor submits to the State agency a list of all new providers added during the month of October, and materials documenting the date of each facility's agreement, licensure, and pre-approval visit, plus whatever other materials the State agency requires in order to render its decision on facility approval. After the State agency approves each new provider's participation on November 20, the sponsor could submit an amended October claim that included the eligible meals served by each provider on or after October 1 (i.e., the first day of the month before the month the State agency approves the homes).

When can a sponsor include these new facilities on its claim to the State agency?

A sponsor can only include new facilities on its claim for reimbursement after the State agency approves the facility, and within the 60-90 day requirements for claim submission. In the example given above, the sponsoring organization could not include the four new homes on its October claim until after the State agency approved the four homes' participation on November 20. The same applies to the claim for administrative reimbursement for these homes. The amended claim could be submitted any time up to January 29.

For what period prior to State agency approval may a day care home receive retroactive reimbursement?

A day care home can receive retroactive reimbursement back to the first day of the month before the month in which its application is approved by the State agency, or the effective date of its license/alternate approval, whichever is later. In no case may a facility be reimbursed for meals served prior to the effective date of its license/alternate approval.

Which approach does USDA recommend that State agencies follow?

This memorandum does not intend to recommend or prohibit either approach; rather it explicitly permits the extension of retroactive payments to day care homes under certain circumstances, and establishes some parameters for a State agency to follow in implementing its policy on retroactive reimbursement. These parameters will ensure that the State agency's policy is in conformance with all Program requirements set forth in 7 CFR Part 226.

Do these same approaches apply to centers?

Yes. However, please note that the regulations do not explicitly require sponsors of centers to enter into agreements with their centers. If the State agency does not require these agreements, then this would not be a condition for sponsored centers to receive retroactive reimbursement.

Must a State agency adopt the same approach for its centers and day care homes?

No. It is permissible for State agencies to adopt one approach for retroactive reimbursement for its centers and another for its day care homes, as long as the policies are consistently applied within each type of facility (i.e., one policy for all day care homes, and one policy for all centers).

How does FNS plan to monitor implementation of this guidance?

We plan to add to the Management Evaluation Guidance several questions concerning the State agency's facility approval process and its retroactive reimbursement policy to ensure that they are consistent with this memorandum.

If you should have any questions regarding this memorandum, you may contact a member of our staff at 303-844-0359.

**Original Signed by
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